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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,551	02/26/2004	Jen-Kui Chang	14259 B	7040
167	7590	08/10/2005	EXAMINER	
FULBRIGHT AND JAWORSKI LLP 555 S. FLOWER STREET, 41ST FLOOR LOS ANGELES, CA 90071			REESE, DAVID C	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/788,551

Applicant(s)

CHANG, JEN-KUI

Examiner

David C. Reese

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

A

### **DETAILED ACTION**

This office action is in response to Applicant's amendment filed 6/14/2005.

#### ***Status of Claims***

- [1] Claim 11 is pending.

#### ***Specification***

- [2] The disclosure is objected to because of the following informalities: On page 4, beginning with line 7, "that that," should be changed to "than that".

Appropriate correction is required.

#### ***Claim Objections***

- [3] Claim(s) 8 were previously objected to because of informalities. Applicant has successfully addressed these issues in the amendment filed on 6/14/2005. Accordingly, the objection(s) to the claim(s) 8 have been withdrawn. Upon examination of the amended claim, however, an additional objection is currently held with respect to Claim 11 as in line 3, "ahs," should be "has."

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

- [4] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

[5] Claim 11 is rejected under 35 U.S.C. 102(e) as clearly anticipated by Farrell et al., US-6,659,700.

The shape and appearance of Farrell et al. is identical in all material respects to that of the claimed design, *Hupp v. Siroflex of America Inc.*, 122 F.3d 1456, 43 USPQ2d 1887 (Fed. Cir. 1997).

As for Claim 1, Farrell et al. teaches of a fastening member (Fig. 54), comprising a root portion (298) and a driven portion (top of 298) formed from sheet plate, wherein:

the root portion (298) has a first end (298) and second end (292), the root portion (298) has a mediate portion formed with two completely enclosed elongated slots (300, 302) extending in a longitudinal direction of said root portion (298);

the outer edges of said root portion adjacent said slots are each formed with a ratchet portion (294, 296);

the driven portion (top of 298) has an end extended from the first end of the root portion (298); and

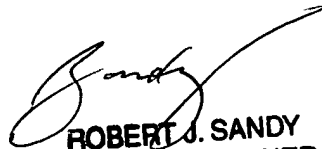
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said second end of the root portion (292) has two opposite sides each formed with an inclined face having a first end located adjacent to the respective slot, and oblique blade having a first end extended from a second end of the inclined face, and tip extended from a second end of the oblique blade, said tip being formed by first and second sides extending from said second ends of said oblique blades and defining and included angle of approximately less than seventy degrees (the bottom of 292 in Fig. 54, as well as that disclosed by Farrell in Figs. 55, and 57A-57C, where he states in col. 23, beginning with line 23, "It should be understood that those skilled in the art that the points on the blade type fasteners may be formed in various ways in order to accomplish the desired penetration of the workpieces under various applications." He continues to disclose of various types of points, which may be utilized from Fig. 55, such as the spear in F, as well as possible edges on said points which may also be utilized such as the double bevel from Fig. 57A). Such combinations of points and edges when substituted to the second end of the root portion do indeed anticipate the applicant's current tip and corresponding blade structure.

***Response to Arguments***

[6] Since applicant has canceled claims 1-10, and submitted the newly added claim 11, the prior art of Enstrom, US-3,882,755, used in the previous rejection no longer anticipates the instant claim. And the arguments regarding such are considered moot. However, upon further consideration of the amended claims, a new ground(s) of rejection is made in view of Farrell et al., US- 6,659,700 (prior art of which was listed on the previous notice of reference cited).

Farrell et al., does indeed show of two completely enclosed elongated slots in a longitudinal direction of said root portion; and Farrell et al., also discloses a diverse array of additional embodiments that such a structure of a fastener can incorporate, including different points and edges emulating that of applicants currently claimed invention.

  
**ROBERT J. SANDY**  
**PRIMARY EXAMINER**

Art Unit: 3677

*Conclusion*

[7] Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

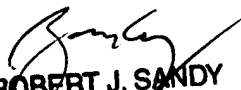
[8] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is (571) 272- 7082. The examiner can normally be reached on 7:30 am - 6:00 pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached at (571) 272-7075. **Please also note the change in the fax phone number to (571) 273-8300 for the organization where this application or proceeding is assigned.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,  
David Reese  
Assistant Examiner  
Art Unit 3677

DCR

  
**ROBERT J. SANDY**  
**PRIMARY EXAMINER**